UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/458,322	12/10/1999	STEPHEN J. ZACK	533/198	8722

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EXAMINER
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ART UNIT	PAPER NUMBER
2611	

DATE MAILED: 10/08/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Advisory Action	09/458,322	ZACK ET AL.
	Examiner	Art Unit
	Son P Huynh	2611

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED on September 2, 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may <u>only</u> be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

<u>PERIOD FOR REPLY</u> [check either a) or b)]

a) ☒ The period for reply expires <u>03</u> months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1.☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2.☐ The proposed amendment(s) will not be entered because:

(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

(b) ☐ they raise the issue of new matter (see Note below);

(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.
NOTE: _____.

3.☐ Applicant's reply has overcome the following rejection(s): _____.

4.☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5.☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6.☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7.☒ For purposes of Appeal, the proposed amendment(s) a)☒ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: *11-31*.

Claim(s) withdrawn from consideration: _____.

8.☐ The proposed drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9.☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10.☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive.

Applicant argues neither Adams, Mao, Arazi nor Son teaches or suggests receiving non-content data for use by a communication channe formatting the data and multiplexing the formatted non-content data into the stream on a bandwidth available basis (page 3, lines 6-9; page 5, lines 1-4). Furthermore, Applicant argues neither Arazi nor Son teaches or suggests a format converter for formatting non-conten data, a controller that causes a switch to insert corresponding HS-ASI formatted non-content data into an output stream. Examiner respectfully traverses.

Adams discloses service source 115 includes a number of media servers 200, and at least one application server 202 coupled to a network controller 204. The application data can be stored and transmitted in Internet Protocol (IP) format, or any other formats (see col. 3, lines 40-45). The application data stream is received by application buffer 402 and selected to output by selector 404. The selector 404 only passes the application data from application buffer 402 when all video buffers 400 are empty (see col. 4, line 34-col. 5, line 8). The wasted bandwidth is used to transmit other data such as application programs, application data and control information (see col. 6, line 63-col. 7, line 4). the rate of the nonvideo data (non-content data) is controlled so as to fill available bandwidth in the 6 MHz multiplexed channel (see col. 7, lines 25-27). Clearly, the non-content data (application data) have to be received and formatted before outputting by the selector 404 and the formatted non-content data (nonvideo or application data) is multiplexing on the bandwidth available basis (wast bandwidth); A controller is included to cause the selector to select application data in application buffer when all encoded video data in video buffers are empty. Also, it is obvious to one of ordinary skill in the art that the service source 115 includes a format converter in order to convert application data to Internet protocol format or any other formats suitable for use in the network.

Arazi discloses Aux. Data storage 130 for storing auxiliary data (data for computer related applications, news and other informational content, etc.) The auxiliary may be either compressed or uncompressed. They may be selectively directed to certain receivers or to certai pre-subsets of the entire receive population (see col. 2, line 65-col. 3, line 6). The auxiliary data is extracted from aux. data storage 130 and divided into segments before inserted into available bandwidth of the stream (space that would otherwise be wasted) by the Auxiliary Data Insertion Controller 200 (col. 4, lines 1-35 and col. 6, lines 40-44). Thus, non-content data (auxiliary data) is received and formatted (divided) in a form suitable for multiplexing into the stream on an available bandwidth. Arazi further discloses Auxiliary Data Insertion Controller 200 detects the fill packet and causes Auxiliary Data MUX 280 to replace the fill packet with Auxiliary packet (see figure 2 and col. 6, line 45+). Clearly, the controller (Auxiliary Data Insertion Controller 200) causes a switch (Data MUX 280) to insert non-content dat into output stream. It is obvious to one of ordinary skill in the art that the system includes a format converter in order to convert non-content data (divide or compress auxiliary data) into formats suitable for use in the network.

Mao teaches formatting the data received by server 80 to DVB ASI for use by the communication channel (see figure 2 and col. 5, lines 47-49). Furthermore, Son teaches transmission of HS-ASI formatted data into an output stream (see col. 3, line 20). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify either Adams or Arazi with the teaching as taught by Mao or Son in order improve efficiency in data transmission.

VIVEK SRIVASTAVA
PRIMARY EXAMINER

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